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VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

July 15, 2014

Allan Szabo, President and Chief Operating Officer
John Loiler, Plant Manager
Carlton Forge Works
7743 Adams Street
Paramount, CA 90723

Re: Notice of Violations and Intent to File Suit Under the Federal Water Pollution Control Act

Dear Mr. Szabo and Mr. Loiler:

I am writing on behalf of California Communities Against Toxics ("CCAT") in regard to violations of the Federal Water Pollution Control Act (the "Clean Water Act" or "Act") that CCAT believes are occurring at Carlton Forge Works' industrial facility located at 7743 Adams Street in Paramount, California ("Facility"). CCAT is a non-profit public benefit corporation dedicated to working with communities to advocate for environmental justice and pollution prevention. CCAT has members living in the community adjacent to the Facility and the Los Angeles River Watershed. CCAT and its members are deeply concerned with protecting the environment in and around their communities, including the Los Angeles River Watershed. This letter is being sent to you as the responsible owners, officers, or operators of the Facility (all recipients are hereinafter collectively referred to as "Carlton").

This letter addresses Carlton's unlawful discharge of pollutants from the Facility through the City of Paramount storm sewer system into the Los Angeles County Flood Control District storm system which discharges into the Los Angeles River. The Facility is discharging storm water pursuant to National Pollutant Discharge Elimination System ("NPDES") Permit No. CA S000001, State Water Resources Control Board ("State Board") Order No. 92-12-DWQ as amended by Order No. 97-03-DWQ (hereinafter "General Permit").[1] The WDID identification

[1] On April 1, 2014, the State Board reissued the General Permit, continuing its mandate that industrial facilities implement the best available technology economically achievable ("BAT") and best conventional pollutant control technology ("BCT") and, in addition, establishing

number for the Facility listed on documents submitted to the Regional Water Quality Control Board, Los Angeles Region ("Regional Board") is 4 19I002365. The Facility is engaged in ongoing violations of the substantive and procedural requirements of the General Permit.

Section 505(b) of the Clean Water Act requires a citizen to give notice of intent to file suit sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act (33 U.S.C. § 1365(a)). Notice must be given to the alleged violator, the U.S. Environmental Protection Agency ("EPA") and the State in which the violations occur.

As required by the Clean Water Act, this Notice of Violation and Intent to File Suit provides notice of the violations that have occurred, and continue to occur, at the Facility. Consequently, Carlton is hereby placed on formal notice by CCAT that, after the expiration of sixty days from the date of this Notice of Violations and Intent to Sue, CCAT intends to file suit in federal court against Carlton under Section 505(a) of the Clean Water Act (33 U.S.C. § 1365(a)), for violations of the Clean Water Act and the General Permit. These violations are described more extensively below.

I. Background.

On March 27, 1992, the State Board approved Carlton's Notice of Intent to Comply With the Terms of the General Permit to Discharge Storm Water Associated with Industrial Activity ("NOI"). In its NOI, SWPPP, and Annual Reports, Carlton has certified that the Facility is classified under SIC Code 3462 ("iron and steel forgings") and SIC Code 3463. The Facility collects and discharges storm water from its 13-acre industrial site into at least fifteen storm drain outfalls located at the Facility. On information and belief, CCAT alleges that industrial activities at the site include the manufacture of seamless rolled rings and open and closed die forgings for the aerospace, gas turbine, industrial, commercial, and nuclear industries. Raw materials including carbon and alloy steels, aluminum, titanium, nickel, cobalt, and other exotic high-temperature metals are used in these manufacturing processes, and raw materials, finished products, and waste materials are stored outdoors. On information and belief, CCAT alleges that storm water discharges from the Facility contain storm water that is commingled with runoff from the Facility from areas where industrial processes occur and/or where materials are stored. The outfalls discharge into the City of Paramount storm sewer system which flows to the Los Angeles County Flood Control District storm system which discharges into the Los Angeles River.

The Regional Board has identified beneficial uses of the Los Angeles River and established water quality standards for it in the "Water Quality Control Plan – Los Angeles Region: Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties", generally referred to as the Basin Plan. *See* http://www.waterboards.ca.gov/losangeles/water_issues/

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numeric action levels mandating additional pollution control efforts. State Board Order 2014-0057-DWQ. The new permit, however, does not go into effect until July 1, 2015. Until that time, the current General Permit remains in full force and effect.

programs/basin_plan/basin_plan_documentation.shtml. The beneficial uses of these waters include, among others, municipal and domestic supply, groundwater recharge, water contact recreation, non-contact water recreation, warm freshwater habitat, and wildlife habitat. The non-contact water recreation use is defined as "[u]ses of water for recreational activities involving proximity to water, but not normally involving contact with water where water ingestion is reasonably possible. These uses include, but are not limited to, picnicking, sunbathing, hiking, beachcombing, camping, boating, tidepool and marine life study, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities." *Id.* at 2-2. Contact recreation use includes fishing and wading. *Id.* Visible pollution, including visible sheens and cloudy or muddy water from industrial areas, impairs people's use of the Los Angeles River for contact and non-contact water recreation and commercial and sport fishing.

The Basin Plan includes a narrative toxicity standard which states that "[a]ll waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in, human, plant, animal, or aquatic life." *Id.* at 3-16. The Basin Plan includes a narrative oil and grease standard which states that "[w]aters shall not contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect beneficial uses." *Id.* at 3-11. The Basin Plan provides that "[w]aters shall not contain suspended or settleable material in concentrations that cause nuisance or adversely affect beneficial uses." *Id.* at 3-16. The Basic Plan provides that "[t]he pH of bays or estuaries [or inland surface waters] shall not be depressed below 6.5 or raised above 8.5 as a result of waste discharges." *Id.* at 3-15. The Basin Plan provides that "[s]urface waters shall not contain concentrations of chemical constituents in amounts that adversely affect any designated beneficial use." *Id.* at 3-8. The Basin Plan provides that "[w]aters shall not contain floating materials, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses." *Id.* at 3-9.

The Basin Plan also provides a chemical constituent standard that "[s]urface waters shall not contain concentrations of chemical constituents in amounts that adversely affect any designated beneficial use. Water designated for use as Domestic or Municipal Supply (MUN) shall not contain concentrations of chemical constituents in excess of the limits specified in the following provisions of Title 22 of the California Code of Regulations which are incorporated by reference into this plan: Table 64431-A of Section 64431 (Inorganic Chemicals)..." *Id.* at 3-8. The Basin Plan provides a Maximum Contaminant Level ("MCL") for aluminum of 1 mg/L.

The EPA 303(d) List of Water Quality Limited Segments lists Reach 1 of the Los Angeles River, the next segment downstream from where the Facility's storm water discharges – as impaired for zinc. *See* http://www.waterboards.ca.gov/centralvalley/water_issues/tmdl/impaired_waters_list/2008_2010_usepa_303dlist/20082010_usepa_aprvd_303dlist.pdf. As a result, the Basin Plan contains additional water quality standards for the Los Angeles River in an amendment setting forth Total Maximum Daily Loads ("TMDLs") for the Los Angeles River. *See* http://63.199.216.6/larwqcb_new/bpa/docs/R10-003/R10-003_RB_BPA.pdf. For General Industrial Storm Water permittees, the Basin Plan sets forth interim wet-weather concentration-

based waste load allocations ("WLAs") that have been enforceable conditions for discharges since January 11, 2011. There is a WLA for zinc of 0.117 mg/L.

The EPA has adopted a freshwater numeric water quality standard for zinc of 0.120 mg/L (Criteria Maximum Concentration – "CMC"). 65 Fed.Reg. 31712 (May 18, 2000) (California Toxics Rule).[2]

The EPA has published benchmark levels as guidelines for determining whether a facility discharging industrial storm water has implemented the requisite best available technology economically achievable ("BAT") and best conventional pollutant control technology ("BCT").[3] The following benchmarks have been established for pollutants discharged by Carlton: pH – 6.0 - 9.0 standard units ("s.u."); total suspended solids ("TSS") – 100 mg/L; oil and grease ("O&G") – 15 mg/L; chemical oxygen demand ("COD") – 120 mg/L; nitrate plus nitrite as nitrogen ("N+N") – 0.68 mg/L; zinc – 0.13 mg/L; cadmium – 0.0023 mg/L; aluminum – 0.75 mg/L; and iron – 1.0 mg/L.[4]

II. Alleged Violations of the Clean Water Act and the General Permit.

A. Discharges in Violation of the Permit not Subjected to BAT/BCT

Carlton has violated and continues to violate the terms and conditions of the General Permit. Section 402(p) of the Act prohibits the discharge of storm water associated with industrial activities, except as permitted under an NPDES permit (33 U.S.C. § 1342) such as the General Permit. The General Permit prohibits any discharges of storm water associated with industrial activities or authorized non-storm water discharges that have not been subjected to BAT or BCT. Effluent Limitation B(3) of the General Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. BAT and BCT include both nonstructural and structural measures. General Permit, Section A(8). Conventional pollutants are TSS, O&G, pH, biochemical oxygen demand, and fecal coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. *Id.*; 40 C.F.R. § 401.15.

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[2] The values for zinc, copper, cadmium, and lead are expressed as a function of total hardness (mg/L) in the water body and correspond to a total hardness of 100 mg/L, which is the default listing in the California Toxics Rule.

[3] The Benchmark Values can be found at:
http://www.epa.gov/npdes/pubs/msgp2008_finalpermit.pdf and
http://cwea.org/p3s/documents/multi-sectorrev.pdf (Last accessed on July 14, 2014).

[4] In the Regional Board's June 2, 2005 "Total Maximum Daily Loads for Metals – Los Angeles River and Tributaries", the Regional Board found a median hardness value of 80 mg/L for storm composite samples in the Los Angeles River. Accordingly, since the benchmark level for zinc is hardness-dependent, the numbers listed here are based on a water hardness range of 75-100 mg/L [$CaCO_3$].

In addition, Discharge Prohibition A(1) of the General Permit prohibits the discharge of materials other than storm water (defined as non-storm water discharges) that discharge either directly or indirectly to waters of the United States. Discharge Prohibition A(2) of the General Permit prohibits storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance.

Receiving Water Limitation C(1) of the General Permit prohibits storm water discharges and authorized non-storm water discharges to surface or groundwater that adversely impact human health or the environment. Receiving Water Limitation C(2) of the General Permit also prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan or the applicable Regional Board's Basin Plan. The General Permit does not authorize the application of any mixing zones for complying with Receiving Water Limitation C(2). As a result, compliance with this provision is measured at the Facility's discharge monitoring locations.

Carlton has discharged and continues to discharge storm water with unacceptable levels of TSS, O&G, COD, zinc, and aluminum in violation of the General Permit. Carlton's sampling and analysis results reported to the Regional Board confirm discharges of specific pollutants and materials other than storm water in violation of the Permit provisions listed above. Self-monitoring reports under the Permit are deemed "conclusive evidence of an exceedance of a permit limitation." *Sierra Club v. Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1988).

The following discharges of pollutants from the Facility have contained concentrations of pollutants in excess of numeric water quality standards established in the Basin Plan and the California Toxics Rule and has thus violated Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) and are evidence of ongoing violations of Effluent Limitation B(3) of the General Permit.

Date	**Parameter**	**Observed Concentration**	**Basin Plan Water Quality Standard / EPA California Toxics Rule**	**Outfall (as identified by the Facility)**
3/6/2013	Aluminum	3.78 mg/L	1.0 mg/L (MCL)	Jefferson Gate Main
3/6/2013	Aluminum	5 mg/L	1.0 mg/L (MCL)	Parking Lots
3/6/2013	Aluminum	1.95 mg/L	1.0 mg/L (MCL)	Main Gate
3/6/2013	Aluminum	14 mg/L	1.0 mg/L (MCL)	Jefferson
12/13/2012	Aluminum	4.64 mg/L	1.0 mg/L (MCL)	Jefferson Shipping
12/13/2012	Aluminum	1.8 mg/L	1.0 mg/L (MCL)	Jefferson Plant
12/13/2012	Aluminum	1.61 mg/L	1.0 mg/L (MCL)	Main Gate
12/13/2012	Aluminum	1.26 mg/L	1.0 mg/L (MCL)	Vermont
4/13/2012	Aluminum	2.69 mg/L	1.0 mg/L (MCL)	Jefferson Shipping Water

4/13/2012	Aluminum	2.48 mg/L	1.0 mg/L (MCL)	Jefferson Plant Water
4/13/2012	Aluminum	1.23 mg/L	1.0 mg/L (MCL)	Stormwater Main Gate
4/13/2012	Aluminum	3.71 mg/L	1.0 mg/L (MCL)	Vermont Ave Water
3/6/2013	Zinc	0.447 mg/L	0.117 mg/L (WLA) / 0.120 mg/L (CMC)	Jefferson Gate Main
3/6/2013	Zinc	2.68 mg/L	0.117 mg/L (WLA) / 0.120 mg/L (CMC)	Parking Lots
3/6/2013	Zinc	3.06 mg/L	0.117 mg/L (WLA) / 0.120 mg/L (CMC)	Main Gate
3/6/2013	Zinc	1.76 mg/L	0.117 mg/L (WLA) / 0.120 mg/L (CMC)	Jefferson
12/13/2012	Zinc	1.27 mg/L	0.117 mg/L (WLA) / 0.120 mg/L (CMC)	Jefferson Shipping
12/13/2012	Zinc	0.269 mg/L	0.117 mg/L (WLA) / 0.120 mg/L (CMC)	Jefferson Plant
12/13/2012	Zinc	5.44 mg/L	0.117 mg/L (WLA) / 0.120 mg/L (CMC)	Main Gate
12/13/2012	Zinc	4.13 mg/L	0.117 mg/L (WLA) / 0.120 mg/L (CMC)	Vermont
4/13/2012	Zinc	0.641 mg/L	0.117 mg/L (WLA) / 0.120 mg/L (CMC)	Jefferson Shipping Water
4/13/2012	Zinc	0.346 mg/L	0.117 mg/L (WLA) / 0.120 mg/L (CMC)	Jefferson Plant Water
4/13/2012	Zinc	1.72 mg/L	0.117 mg/L (WLA) / 0.120 mg/L (CMC)	Stormwater Main Gate
4/13/2012	Zinc	1.33 mg/L	0.117 mg/L (WLA) / 0.120 mg/L (CMC)	Vermont Ave Water
3/17/2012	Zinc	0.148 mg/L	0.117 mg/L (WLA) / 0.120 mg/L (CMC)	Jefferson
3/17/2012	Zinc	0.157 mg/L	0.117 mg/L (WLA) / 0.120 mg/L (CMC)	Park Areas

The information in the above table reflects data gathered from Carlton's self-monitoring during the 2010-2011, 2011-2012, and 2012-2013 wet seasons.[5] CCAT alleges that during each of those wet seasons and continuing through today, Carlton has discharged storm water contaminated with pollutants at levels or observations that exceed or violate one or more applicable water quality standards, including but not limited to each of the following:

[5] Although the 2013-2014 wet season has concluded, Carlton has not yet submitted its Annual Report electronically to the Regional Board. On information and belief, CCAT alleges that Carlton's storm water sampling results from the 2013-2014 wet season contain concentrations of pollutants in excess of the water quality standards referenced in the above table.

- Aluminum – 1.0 mg/L (MCL)
- Zinc – 0.120 mg/L (CMC)
- Zinc – 0.117 mg/L (WLA)

The following discharges of pollutants from the Facility have violated Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) and are evidence of ongoing violations of Effluent Limitation B(3) of the General Permit.

Date	Parameter	Observed Concentration	EPA Benchmark Value	Location (as identified by the Facility)
3/6/2013	Total Suspended Solids	211 mg/L	100 mg/L	Jefferson Gate Main
3/6/2013	Oil & Grease	24.9 mg/L	15 mg/L	Jefferson Gate Main
3/6/2013	Chemical Oxygen Demand	261 mg/L	120 mg/L	Jefferson Gate Main
3/6/2013	Zinc	0.447 mg/L	0.13 mg/L	Jefferson Gate Main
3/6/2013	Aluminum	3.78 mg/L	0.75 mg/L	Jefferson Gate Main
3/6/2013	Total Suspended Solids	139 mg/L	100 mg/L	Parking Lots
3/6/2013	Chemical Oxygen Demand	306 mg/L	120 mg/L	Parking Lots
3/6/2013	Zinc	2.68 mg/L	0.13 mg/L	Parking Lots
3/6/2013	Aluminum	5 mg/L	0.75 mg/L	Parking Lots
3/6/2013	Oil & Grease	16.3 mg/L	15 mg/L	Main Gate
3/6/2013	Chemical Oxygen Demand	128 mg/L	120 mg/L	Main Gate
3/6/2013	Zinc	3.06 mg/L	0.13 mg/L	Main Gate
3/6/2013	Aluminum	1.95 mg/L	0.75 mg/L	Main Gate
3/6/2013	Total Suspended Solids	247 mg/L	100 mg/L	Jefferson
3/6/2013	Oil & Grease	22.8 mg/L	15 mg/L	Jefferson
3/6/2013	Chemical Oxygen Demand	149 mg/L	120 mg/L	Jefferson
3/6/2013	Zinc	1.27 mg/L	0.13 mg/L	Jefferson
3/6/2013	Aluminum	4.64 mg/L	0.75 mg/L	Jefferson
12/13/2012	Total Suspended Solids	294 mg/L	100 mg/L	Jefferson Shipping
12/13/2012	Oil & Grease	25 mg/L	15 mg/L	Jefferson Shipping
12/13/2012	Chemical Oxygen Demand	175 mg/L	120 mg/L	Jefferson Shipping
12/13/2012	Zinc	1.27 mg/L	0.13 mg/L	Jefferson Shipping
12/13/2012	Aluminum	4.64 mg/L	0.75 mg/L	Jefferson Shipping
12/13/2012	Oil & Grease	25.6 mg/L	15 mg/L	Jefferson Plant
12/13/2012	Chemical Oxygen Demand	150 mg/L	120 mg/L	Jefferson Plant
12/13/2012	Zinc	0.269 mg/L	0.13 mg/L	Jefferson Plant
12/13/2012	Aluminum	1.8 mg/L	0.75 mg/L	Jefferson Plant
12/13/2012	Chemical Oxygen Demand	154 mg/L	120 mg/L	Main Gate
12/13/2012	Zinc	5.44 mg/L	0.13 mg/L	Main Gate
12/13/2012	Aluminum	1.61 mg/L	0.75 mg/L	Main Gate
12/13/2012	Chemical Oxygen Demand	179 mg/L	120 mg/L	Vermont
12/13/2012	Zinc	4.13 mg/L	0.13 mg/L	Vermont

12/13/2012	Aluminum	1.26 mg/L	0.75 mg/L	Vermont
4/13/2012	Total Suspended Solids	198 mg/L	100 mg/L	Jefferson Shipping Water
4/13/2012	Oil & Grease	16.5 mg/L	15 mg/L	Jefferson Shipping Water
4/13/2012	Zinc	0.641 mg/L	0.13 mg/L	Jefferson Shipping Water
4/13/2012	Aluminum	2.69 mg/L	0.75 mg/L	Jefferson Shipping Water
4/13/2012	Total Suspended Solids	106 mg/L	100 mg/L	Jefferson Plant Water
4/13/2012	Zinc	0.346 mg/L	0.13 mg/L	Jefferson Plant Water
4/13/2012	Aluminum	2.48 mg/L	0.75 mg/L	Jefferson Plant Water
4/13/2012	Zinc	1.72 mg/L	0.13 mg/L	Stormwater Main Gate
4/13/2012	Aluminum	1.23 mg/L	0.75 mg/L	Stormwater Main Gate
4/13/2012	Total Suspended Solids	222 mg/L	100 mg/L	Vermont Ave Water
4/13/2012	Zinc	1.33 mg/L	0.13 mg/L	Vermont Ave Water
4/13/2012	Aluminum	3.71 mg/L	0.75 mg/L	Vermont Ave Water
3/17/2012	Zinc	0.148 mg/L	0.13 mg/L	Jefferson
3/17/2012	Aluminum	0.752 mg/L	0.75 mg/L	Jefferson
3/17/2012	Zinc	0.157 mg/L	0.13 mg/L	Park Areas
1/30/2011	Total Suspended Solids	409 mg/L	100 mg/L	Main Gate
1/30/2011	Oil & Grease	24.3 mg/L	15 mg/L	Main Gate
10/30/2010	Total Suspended Solids	133 mg/L	100 mg/L	Main Gate
10/30/2010	Total Suspended Solids	162 mg/L	100 mg/L	Jefferson Gate
10/30/2010	Total Suspended Solids	602 mg/L	100 mg/L	Jefferson West

The information in the above table reflects data gathered from Carlton's self-monitoring during the 2010-2011, 2011-2012, and 2012-2013 wet seasons.[6] CCAT alleges that during each of those rainy seasons and continuing through today, Carlton has discharged storm water contaminated with pollutants at levels that exceed one or more applicable EPA Benchmarks, including but not limited to each of the following:

[6] As indicated above, CCAT has thus far been unable to obtain a copy of Carlton's 2013-2014 Annual Report. On information and belief, CCAT alleges that Carlton's storm water sampling results from the 2013-2014 wet season contain concentrations of pollutants in excess of the benchmark values.

- Total Suspended Solids – 100 mg/L
- Oil & Grease – 15.0 mg/L
- Chemical Oxygen Demand – 120 mg/L
- Zinc – 0.13 mg/L
- Aluminum – 0.75 mg/L

CCAT's investigation, including its review of Carlton's analytical results documenting pollutant levels in the Facility's storm water discharges well in excess of applicable water quality standards and EPA's benchmark values, indicates that Carlton has not implemented BAT and BCT at the Facility for its discharges of TSS, O&G, COD, zinc, and aluminum in violation of Effluent Limitation B(3) of the General Permit. Carlton was required to have implemented BAT and BCT by no later than October 1, 1992, or since the date the Facility opened. Thus, Carlton is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

In addition, the numbers listed in the tables above indicate that the Facility is discharging polluted storm water in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Permit. CCAT alleges that such violations also have occurred and will occur on other rain dates, including every significant rain event that has occurred since July 15, 2009, and that will occur at the Facility subsequent to the date of this Notice of Violation and Intent to File Suit. Attachment A, attached hereto, sets forth each of the specific rain dates on which CCAT alleges that Carlton has discharged storm water containing impermissible levels of TSS, O&G, COD, zinc, and aluminum in violation of Effluent Limitation B(3), Discharge Prohibitions A(1) and A(2), and Receiving Water Limitations C(1) and C(2) of the General Permit.[7]

These unlawful discharges from the Facility are ongoing. Each discharge of storm water containing any of these pollutants constitutes a separate violation of the General Permit and the Act. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Carlton is subject to penalties for violations of the General Permit and the Act since July 15, 2009.

B. Failure to Sample and Analyze for Mandatory Parameters

With some limited adjustments, facilities covered by the General Permit must sample two storm events per season from each of their storm water discharge locations. General Permit, Section B(5)(a). "Facility operators shall collect storm water samples during the first hour of discharge from (1) the first storm event of the wet season, and (2) at least one other storm event in the wet season." *Id.* "All storm water discharge locations shall be sampled." *Id.* "Facility

[7] The rain dates are all the days when at least 0.1" of rain fell as observed by a weather station in Long Beach, California, approximately 7.5 miles away from the Facility. http://www.ipm.ucdavis.edu/calludt.cgi/WXDESCRIPTION?STN=LONG_BEACH.A (Last accessed on July 14, 2014).

operators that do not collect samples from the first storm event of the wet season are still required to collect samples from two other storm events of the wet season and shall explain in the Annual Report why the first storm event was not sampled." *Id.*

Collected samples must be analyzed for TSS, pH, specific conductance, and either TOC or O&G. *Id.* at Section B(5)(c)(i). Facilities also must analyze their storm water samples for "[t]oxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities. *Id.* at Section B(5)(c)(ii). Certain SIC Codes also must analyze for additional specified parameters. *Id.* at Section B(5)(c)(iii); *id.*, Table D. A facility within SIC Codes 3462, including Carlton, must analyze each of its storm water samples for zinc, N+N, iron, and aluminum. *Id.*, Table D (Sector N).

CCAT's review of Carlton's storm water monitoring data indicates that you have failed to analyze for both iron and N+N in each and every storm water sample taken at the Facility during the 2012-2013, 2011-2012, and 2010-2011 wet seasons. On information and belief, CCAT alleges that Carlton failed to analyze for both iron and N+N during the 2013-2014 wet season. During the 2011-2012, you failed to analyze each and every storm water sample for COD. You have also failed to analyze for COD, zinc, and aluminum in each and every storm water taken at the Facility during the 2010-2011 wet season. These failure to comply with Section B(5)(c)(ii) and B(5)(c)(iii) of the General Permit result in at least 66 violations of the General Permit.

In addition, on information and belief, CCAT alleges that Carlton regularly processes and stores various materials with metal constituents, including at least hexavalent chromium and cadmium, which would likely be present in the Facility's storm water discharges. The Facility has failed to monitor for at least hexavalent chromium and cadmium in each and every storm water sample taken at the Facility during the 2012-2013, 2011-2012, and 2010-2011 wet seasons. This results in at least 44 violations of the General Permit.

These violations are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Carlton is subject to penalties for violations of the General Permit and the Act since July 15, 2009.

C. Failure to Develop and Implement an Adequate Monitoring and Reporting Program

Section B of the General Permit describes the monitoring requirements for storm water and non-storm water discharges. Facilities are required to make monthly visual observations of storm water discharges (Section B(4)) and quarterly visual observations of both unauthorized and authorized non-storm water discharges (Section B(3)). Section B(5) requires facility operators to sample and analyze at least two storm water discharges from all storm water discharge locations during each wet season. Section B(7) requires that the visual observations and samples must represent the "quality and quantity of the facility's storm water discharges from the storm event."

The above-referenced data was obtained from the Facility's monitoring program as reported in its Annual Reports submitted to the Regional Board. This data is evidence that the Facility has violated various Discharge Prohibitions, Receiving Water Limitations, and Effluent Limitations in the General Permit. Carlton claims to take samples at only four of its reported nine discharge locations. To the extent the storm water data collected by Carlton is not representative of the quality of the Facility's various storm water discharges and that the Facility failed to monitor all qualifying storm water discharges, CCAT alleges that the Facility's monitoring program violates Sections B(3), (4), (5) and (7) of the General Permit.

CCAT alleges that Carlton failed to sample and analyze storm water discharges from at least two of the Facility's representative outfalls during the 2011-2012 wet season, on March 17, 2012. CCAT also alleges that Carlton failed to sample and analyze any storm water discharges during the 2009-2010 wet season.

CCAT alleges that Carlton failed to conduct monthly visual observations from its discharge points 5, 6, 7, 8, and 9, during the 2012-2013, 2011-2012, and 2010-2011 wet seasons.

CCAT alleges that Carlton failed to conduct monthly visual observations from all of its discharge points during at least the following months in the indicated years, months in which CCAT alleges that qualified rain events occurred at the Facility:

2013 – February
2012 – February, November, December
2011 – February, October, November, December
2010 – February, April, November
2009 – October, December

In addition, on information and belief, CCAT alleges that Carlton failed to properly record its visual observations of storm water discharges on March 6, 2013; December 13, 2012; April 13, 2012; and January 30, 2011. On these dates, Carlton conducted observations of storm water discharges and did not report observing *any* pollutants. However, Carlton's storm water sampling results for these dates indicate levels of O&G well above the benchmark value of 15 mg/L – levels at which CCAT alleges that Carlton should be observing the presence of oil sheens in its storm water discharges. These discharges contained O&G concentrations that ranged from 16.3 mg/L to 25.6 mg/L. CCAT alleges that it would be impossible for waters with O&G concentrations in this range to be free of visible sheens.

On information and belief, CCAT also alleges that Carlton combined storm water samples in violation of the General Permit. Section B(7)(d) of the General Permit provides that "Facility operators that determine that the industrial activities and BMPs within two or more drainage areas are substantially identical may either (i) collect samples from a reduced number of substantially identical drainage areas, or (ii) collect samples from each substantially identical drainage area and analyze a combined sample from each substantially identical drainage area.

Facility operators must document such a determination in the annual report." Carlton has not made any documentation that its combined storm water samples from Points 1, 2, 3, and 4 involve areas with substantially identical industrial activities and BMPs. On information and belief, CCAT alleges that these area involve different industrial activities and different BMPs. Thus, CCAT alleges Carlton is in violation of the General Permit each time it has taken a combined storm water sample.

The above violations are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Carlton is subject to penalties for violations of the General Permit and the Act's monitoring and sampling requirements since July 15, 2009.

D. Failure to Prepare, Implement, Review and Update an Adequate Storm Water Pollution Prevention Plan

Section A and Provision E(2) of the General Permit require dischargers of storm water associated with industrial activity to develop, implement, and update an adequate storm water pollution prevention plan ("SWPPP") no later than October 1, 1992. Section A(1) and Provision E(2) requires dischargers who submitted an NOI pursuant to the General Permit to continue following their existing SWPPP and implement any necessary revisions to their SWPPP in a timely manner, but in any case, no later than August 1, 1997.

The SWPPP must, among other requirements, identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm and non-storm water discharges from the facility and identify and implement site-specific best management practices ("BMPs") to reduce or prevent pollutants associated with industrial activities in storm water and authorized non-storm water discharges (General Permit, Section A(2)). The SWPPP must include BMPs that achieve BAT and BCT (Effluent Limitation B(3)). The SWPPP must include: a description of individuals and their responsibilities for developing and implementing the SWPPP (General Permit, Section A(3)); a site map showing the facility boundaries, storm water drainage areas with flow pattern and nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, impervious areas, areas of actual and potential pollutant contact, and areas of industrial activity (General Permit, Section A(4)); a list of significant materials handled and stored at the site (General Permit, Section A(5)); a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities, a description of significant spills and leaks, a list of all non-storm water discharges and their sources, and a description of locations where soil erosion may occur (General Permit, Section A(6)).

The SWPPP also must include an assessment of potential pollutant sources at the Facility and a description of the BMPs to be implemented at the Facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective (General Permit, Section A(7),

(8)). The SWPPP must be evaluated to ensure effectiveness and must be revised where necessary (General Permit, Section A(9),(10)).

CCAT's review of the Facility's SWPPP and its investigation of the conditions at the Facility as well as Carlton's Annual Reports indicate that Carlton has been operating with an inadequately developed and implemented SWPPP in violation of the requirements set forth above. Carlton has failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary. Carlton has failed to analyze its storm water discharges for both iron and nitrate + nitrite as nitrogen, which are listed in Section 5.2.2 of the SWPPP. Carlton has failed to implement BMPs to eliminate tracking of materials onto adjacent public streets, materials which can then enter public storm drain during rain events. The SWPPP also references a Hazardous Materials Business Plan as part of its Significant Material list (Section 3.2) but fails to attach this plan to the SWPPP. Carlton has been in continuous violation of Section A and Provision E(2) of the General Permit every day since July 15, 2009, at the very latest, and will continue to be in violation every day that Carlton fails to prepare, implement, review, and update an effective SWPPP. Carlton is subject to penalties for violations of the Order and the Act occurring since July 15, 2009.

E. Failure to File True and Correct Annual Reports

Section B(14) of the General Permit requires dischargers to submit an Annual Report by July 1st of each year to the executive officer of the relevant Regional Board. The Annual Report must be signed and certified by an appropriate corporate officer. General Permit, Sections B(14), C(9), (10). Section A(9)(d) of the General Permit requires the discharger to include in their annual report an evaluation of their storm water controls, including certifying compliance with the General Permit. *See also* General Permit, Sections C(9) and (10) and B(14).

For the last five years, Carlton and its agents, John Loiler and Robert Nuñez, inaccurately certified in its Annual Reports that the Facility was in compliance with the General Permit. Consequently, Carlton has violated Sections A(9)(d), B(14) and C(9) & (10) of the General Permit every time Carlton failed to submit a complete or correct report and every time Carlton or its agents falsely purported to comply with the Act. Carlton is subject to penalties for violations of Section (C) of the General Permit and the Act occurring since at least June 18, 2010.

III. Persons Responsible for the Violations.

CCAT puts Carlton Forge Works, Allan Szabo, and John Loiler on notice that they are the persons responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, CCAT puts Carlton on notice that it intends to include those persons in this action.

IV. Name and Address of Noticing Parties.

The name, address and telephone number of CCAT is as follows:

Jane Williams
Executive Director
California Communities Against Toxics
P.O. Box 845
Rosamond, CA 93560
Tel. (661) 510-3412

V. Counsel.

CCAT has retained counsel to represent it in this matter. Please direct all communications to:

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VI. Penalties.

Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation (40 C.F.R. § 19.4) each separate violation of the Act subjects Carlton to a penalty of up to $37,500 per day per violation. In addition to civil penalties, CCAT will seek injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) (33 U.S.C. §1365(a) and (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the Act (33 U.S.C. § 1365(d)), permits prevailing parties to recover costs and fees, including attorneys' fees.

CCAT believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. CCAT intends to file a citizen suit under Section 505(a) of the Act against Carlton and its agents for the above-referenced violations upon the expiration of the 60-day notice period. However, during the 60-day notice period, CCAT would be willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, CCAT suggests that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. CCAT does not

intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,

Douglas J. Chermak
Lozeau Drury LLP
Attorneys for California Communities Against Toxics

cc via first class mail: National Registered Agents, Inc.
Agent for Service of Process for Carlton Forge Works
(Entity No. C0420963)
818 W Seventh St.
Los Angeles, CA 90017

SERVICE LIST

Gina McCarthy, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Thomas Howard, Executive Director
State Water Resources Control Board
P.O. Box 100
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Samuel Unger, Executive Officer
Los Angeles Regional Water Quality Control Board
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

ATTCHMENT A

Rain Dates, Carlton Forge Works, Paramount, California

10/13/2009	12/22/2010	4/10/2012
10/14/2009	12/23/2010	4/11/2012
12/7/2009	12/24/2010	4/13/2012
12/11/2009	12/26/2010	4/25/2012
12/12/2009	12/27/2010	4/26/2012
12/13/2009	1/30/2011	7/25/2012
1/13/2010	2/16/2011	11/29/2012
1/14/2010	2/18/2011	11/30/2012
1/17/2010	2/19/2011	12/2/2012
1/18/2010	2/25/2011	12/3/2012
1/19/2010	2/26/2011	12/13/2012
1/20/2010	3/20/2011	12/24/2012
1/21/2010	3/21/2011	12/26/2012
1/22/2010	3/23/2011	12/29/2012
2/5/2010	3/25/2011	1/24/2013
2/6/2010	3/27/2011	1/25/2013
2/15/2010	5/17/2011	2/8/2013
2/19/2010	10/4/2011	2/19/2013
2/23/2010	10/5/2011	3/8/2013
2/27/2010	11/4/2011	5/6/2013
3/6/2010	11/6/2011	5/7/2013
4/5/2010	11/12/2011	11/29/2013
4/12/2010	11/20/2011	12/19/2013
10/6/2010	12/12/2011	2/6/2014
11/20/2010	1/21/2012	2/27/2014
12/10/2010	1/23/2012	2/28/2014
12/17/2010	2/15/2012	3/1/2014
12/18/2010	2/27/2012	4/1/2014
12/19/2010	3/17/2012	4/2/2014
12/20/2010	3/18/2012	4/25/2014
12/21/2010	3/25/2012	